

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

KELLEN POWELL, *et al.*,

Plaintiffs,

vs.

CITY OF ST. ANN,

Defendant.

Case No. 4:15-cv-840-RWS

Consent Judgment

COME NOW Plaintiffs, by and through Counsel, and Defendant City of St. Ann, Missouri ("City"), by and through Counsel, and jointly stipulate, as follows:

1. During the term of this Consent Judgment, the City of St. Ann agrees to abide by the following terms:

- a. Except as provided herein, the City of St. Ann and all of its officers, employees, and agents will not utilize secured money bail for persons in the custody of the City on arrest, either without a warrant or on the initial warrant issued, for any violation that may be prosecuted by the City.
- b. The City of St. Ann and all of its officers, employees, and agents will offer every person in the custody of the City on arrest, either without a warrant or on the initial warrant issued, for any violation that may be prosecuted by the City, release from the custody of the City on recognizance or on an unsecured bond as soon as practicable after booking, subject to the application of Section 67.315 RSMo regarding custody of intoxicated persons. The only exception to this provision is such persons as are brought before the court within 24 hours of arrest for potential imposition of conditions for release including the posting of secured¹ money bond for charges resulting from assaultive conduct²

¹ As used herein, the term "secured" bond means a monetary sum that must be paid or posted as a precondition of release from custody. The term "recognizance" means a person's release upon his or her promise to appear in court at a later date. The term "unsecured" bond does not require any up-front payment and is defined as a monetary sum that a person agrees to pay later if the person fails to appear as required without good cause.

² Assaultive conduct as used herein, shall mean conduct that falls within the scope of offenses charged pursuant to Chapter 215, of the St. Ann Municipal Code ("Offenses Against the Person"), as the same may be amended or superseded, and/or Chapter 565 RSMo ("Offenses Against the Person"), as the same may be amended or superseded.

or for a determination that release must be denied to prevent danger to a victim, the community or any other person under applicable constitutional standards, provided that no person will be denied pretrial release because of his or her individual inability to make a monetary payment. A warrant and conditions for release, including the posting of a secured bond and applicable constitutional standards, shall be completed by the Judge within 24 hours of arrest. Upon issuance of a warrant the Municipal Judge shall determine the type of bonds and conditions for release once in custody. Upon the request of a person, the Judge shall hold an indigency hearing, either by person, via video conference or telephone, within 24 hours to determine an individual's inability to make a monetary payment. Persons who violate conditions of release shall be subject to such actions as determined by the court pursuant to applicable law without regard to any additional procedures set forth herein.

- c. The City of St. Ann will notify all arrestees in writing upon release from custody of the time, date, and place at which they are required to appear in court, and consistent with Missouri Supreme Court Rules: (1) information on how to find the standards of indigency as well as the approved form from the Missouri Supreme Court to assert the same; (2) the schedule of fines for the charged violation if it is subject to the Court's Violations Bureau; (3) how to obtain online access to case information; (4) information on how to set up text message or telephone call reminders for court dates; (5) information on how to update address and contact information with the court; and (6) notification that they are required to appear in court on the scheduled court date even if they do not have the funds to pay at the time of the court date.³
- d. The City will comply with the following with respect to subsequent proceedings after a citation was issued with an arrest, or the release of a person arrested after the initial traffic stop.
 - i. For either: (1) a citation issued with no arrest; or (2) an initial arrest without a warrant for an offense that requires fingerprinting, the City shall process and release the person on a citation, which will include providing all of the information set forth in Section 2(c) above, except as otherwise provided in Section 2(b) above.
 - ii. If a person released on a citation fails to appear in court on the noticed court date as provided in Subsection d(i), a summons to appear in court will be sent via mail to the last known address of the person. The summons will notify the person that if they do not appear at the court date set forth in the summons, a warrant may be issued for the person's arrest. The summons will also provide the information set forth in Section 2(c) above.
 - iii. If a person summoned to appear fails to do so, a warrant may issue for the person's arrest and an unsecured bond shall be set with applicable

³ In the event that a person is released from custody without charge, this provision shall not apply. However, if charges are subsequently issued then the information set forth in this Subsection will be provided at the time such person is provided with written notice of the issuance of a charge.

conditions as permitted under state law and as set forth in Missouri Supreme Court Rules. Upon execution of the warrant and the arrest of the person, the person shall be released on the unsecured bond without unreasonable delay and in accordance with the Missouri Supreme Court Rules related to same. Any person who has failed to appear in response to a summons and who has a warrant (setting an unsecured bond) out for his or her arrest consistent with the provisions of this Subsection, may present themselves to the City's Police Department 24 hours a day, at which time they will be promptly processed and allowed to leave on an unsecured bond with a court date.⁴ The City's Municipal Court will approve dates that can be given by the City's correctional officers to those that present themselves voluntarily consistent with this Subsection.

- iv. If after the City has taken the actions set forth in this Section 2(d)(i-iii) a person fails to appear at a subsequent proceeding on an unsecured bond, the City's Municipal Court may, in its discretion, issue a warrant and set a secured bond and such warrant may subsequently be executed and the person arrested. Upon arrest, the person may be detained consistent with the Missouri Supreme Court Rules 37.04 and 37.65 as amended or superseded, as well as Sections 479.360 and 544.170 RSMo as amended or superseded.
- v. Nothing herein shall prevent a person who would be eligible for release under either a recognizance bond or an unsecured bond from requesting a hearing before the Municipal Judge for consideration of alternate conditions for pre-trial release from custody.
- e. Any person who fails to appear in court after release on a secured, unsecured or recognizance bond, or otherwise violates the conditions of release, shall be mailed a notice of a motion for bond forfeiture setting forth a date, time and place at which they are required to appear in court. The notice shall state that the bond will be forfeited and a new warrant will be issued if the person fails to appear, and provide all the information required pursuant to Section 2(c) above.
- f. At any time after any non-appearance, the City may take appropriate and lawful steps under state law to convert any unsecured bond into a money judgment, to be collected through civil means.
- g. The City of St. Ann will contact any agency that has a warrant out for an arrestee in its custody within four hours of being ready to release such person, and shall thereafter release any such arrestee that is being held solely on charges to be prosecuted in municipal court for the shorter of: (1) receiving notification from the other agency that they will not be collecting the person on their warrant; (2) four hours of being ready to release the person if the

⁴ Nothing herein shall prevent a person who would be eligible for release on an unsecured bond from requesting a hearing before the Municipal Judge to request alternate conditions for release. In such event, the Municipal Court will comply with all procedures and time restrictions established by applicable Missouri Supreme Court Rules and State Statutes.

other agency does not respond to attempts to make contact; or (3) 24 hours if the other agency indicates that they will be collecting the person on their warrant, but subsequently do not come to the City.


- h. St. Ann police will not impound a car owned by a person arrested on charges of violations of an ordinance so long as the arrestee designates a licensed driver who will immediately take possession of the car and remove it from the scene of arrest, unless such car is to be held for investigation or evidence.

2. Anytime after two years from the date hereof either party may petition the Court seeking to dissolve this Consent Judgment, which shall be dissolved unless the non-moving party objects on the basis that there has been a material violation of the terms of this Consent Judgment. This Court will extend the term of this Consent Judgment for a further year, in the event that the non-moving party establishes there has been a material violation of the terms of this Consent Judgment by the moving party.

3. In the event that the term of this Consent Judgment is extended for an additional year pursuant to Section 3 above, then anytime after the additional year ends, either party may again petition the Court to seek to dissolve this Consent Judgment, which shall be dissolved unless the non-moving party objects on the basis that there has been a material violation of the terms of this Consent Judgment during the extended period. In the event of subsequent material violations of this Consent Judgment, the parties will follow the procedures set forth herein and the Consent Judgment shall be extended for additional one year terms, as applicable.

4. Following the dissolution of this Consent Judgment, St. Ann agrees to continue: (1) to ensure that indigent persons arrested are afforded the necessary protections under the law; and (2) to comply with applicable state and federal laws pertaining to the setting of conditions upon pre-trial release from custody.

SO ORDERED:


 Date: 5/4/18
USDI.

Respectfully submitted,

CURTIS, HEINZ, GARRETT & O'KEEFE, P.C.

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CERTIFICATE OF SERVICE

A copy of the above and foregoing was served upon the following via the Court's electronic notification system this 2ND day of May, 2018 to all parties of record.

